

NOV 07 2005

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Applicant: Gerald R. Koefeldt, et al.

Examiner: Castellano

Serial No.: 09/710,516

Group Art Unit: 3727

Filed: November 10, 2000

Attorney Docket No: RPC-0485-PUS

Title: CRATE FOR BOTTLES AND OTHER CONTAINERS

Mail Stop Appeal Brief - Patents

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

TRANSMITTAL OF SUBSTITUTE APPEAL BRIEF

Appellant submits the attached Substitute Appeal Brief pursuant to the Order Returning Undocketed Appeal to Examiner, mailed October 4, 2005. The Order indicates: a) the brief is in the old format; and b) the Evidence and Related Proceedings Appendices are missing.

The Order was discussed with Dale Shaw on October 11, 2005. Mr. Shaw indicated that the second paragraph in the Order was in error, as the Brief is clearly in the new format. Mr. Shaw also indicated that a new Brief (with the Appendices added) could be submitted without waiting for a notice of non-compliance from the Examiner, if the Examiner so agreed.

On October 19, 2005, the Examiner agreed that a Substitute Appeal Brief could be submitted without waiting for a notice of non-compliance.

In the attached Substitute Appeal Brief, the Evidence and Related Proceeding Appendices have been added (both indicate "None."). No other changes have been made, so a new Examiner's Answer and a new Reply Brief should be unnecessary.

Respectfully submitted,

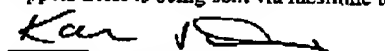
Date: November 7, 2005



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CERTIFICATE OF FACSIMILE TRANSMISSION

I hereby certify that this Transmittal of Substitute Appeal Brief is being sent via facsimile to 571-273-8300 on November 7, 2005.


Konstantine J. Diamond

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Docket No. RPC-0485-PUS

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SUBSTITUTE APPEAL BRIEF

Appellant submits this Substitute Appeal Brief pursuant to the Order Returning Undocketed Appeal to Examiner, mailed October 4, 2005.

CERTIFICATE OF FACSIMILE TRANSMISSION

I hereby certify that this Substitute Appeal Brief (30 Pages) is being sent via facsimile to 571-273-8300 on November 7, 2005.


Konstantine J. Diamond

Serial No. 09/710,516
Docket No. RPC-0485-PUS

REAL PARTY IN INTEREST

The real party in interest is Rehrig Pacific Company, assignee of the present invention.

RELATED APPEALS AND INTERFERENCES

There are no prior or pending appeals, interferences or judicial proceedings related to, may directly affect or may be directly affected by or have a bearing on the Board's decision in this appeal.

STATUS OF CLAIMS

Claims 1-17, 19-21, 23-26, 29-41 and 43-48 are pending, rejected and appealed.

STATUS OF AMENDMENTS

It is understood that the Amendment After Final filed November 5, 2004 has been entered by Lee Young. That Amendment simply cancelled two claims numbered "42" and rewrote them as claims 47 and 48. This Amendment has been incorporated into the Appendix and where the Examiner had previously rejected claim 42, it is assumed that he has rejected both claims 47 and 48.

SUMMARY OF CLAIMED SUBJECT MATTER

Divided crates are used in industry today to transport a variety of goods. Such divided crates are commonly formed of corrugated cardboard, plastic, and wood and have an open compartment into which the goods are placed. When transporting bottles or the like, typical crates do not allow the bottles to maintain an upright or aligned configuration but instead allow

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for play. Such alignment is desirable particularly when crates are stacked upon one another. For example, typically, a single plastic beverage bottle can support the weight of many bottles of the same size filled with beverage if the bottle is standing upright on a flat, horizontal surface and the weight of the other bottles is applied to the closure of the single bottle and is directed substantially vertically along the symmetric axis. However, if a compressive load is applied to a conventional plastic beverage bottle along a direction other than the symmetry axis of the bottle, the bottle may buckle. This tendency of conventional plastic bottles to give way under off-axis compressive loads is particularly pronounced for large capacity bottles, such as the two-liter bottle widely used for marketing soft drinks.

Bottles can tilt away from vertical alignment upon stacking if conventional partitioned cases having low side walls are used to contain the bottles. Tilted bottles in the lower cases of a stack may cause the stack to fall. Even absent buckling, the tendency of bottles to tilt in conventional low-sided cases is not desirable. Tilting generally places an undesirably low limit on the number of tiers in a stack since the tilting of bottles in one case and may lead to instability.

A competing concern for storing and transporting beverage bottles is protecting the bottle label. Most beverage bottles sold today, whether glass or plastic, have labels attached thereto, via adhesive or screened thereon. Because of the information the label provides, it is desirable that the label stay intact and fully attached to the bottle. Of course, the label provides the nature of the bottle's content as well as the brand name and associated trademarks and goodwill of the manufacturer, among other things. In many crates which have dividers and other walls adjacent the bottles, the bottle label may be subject to rubbing, wear, or other damage resulting from contact with the dividers or walls.

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Referring to Figure 1 of the present application (reproduced below), a crate 10 includes a floor 20 and a first pair of sidewalls 12, 14 and a second pair of sidewalls 16, 18 defining a compartment 30. The crate 10 includes a hinged first lid portion 26 and a hinged second lid portion 28.

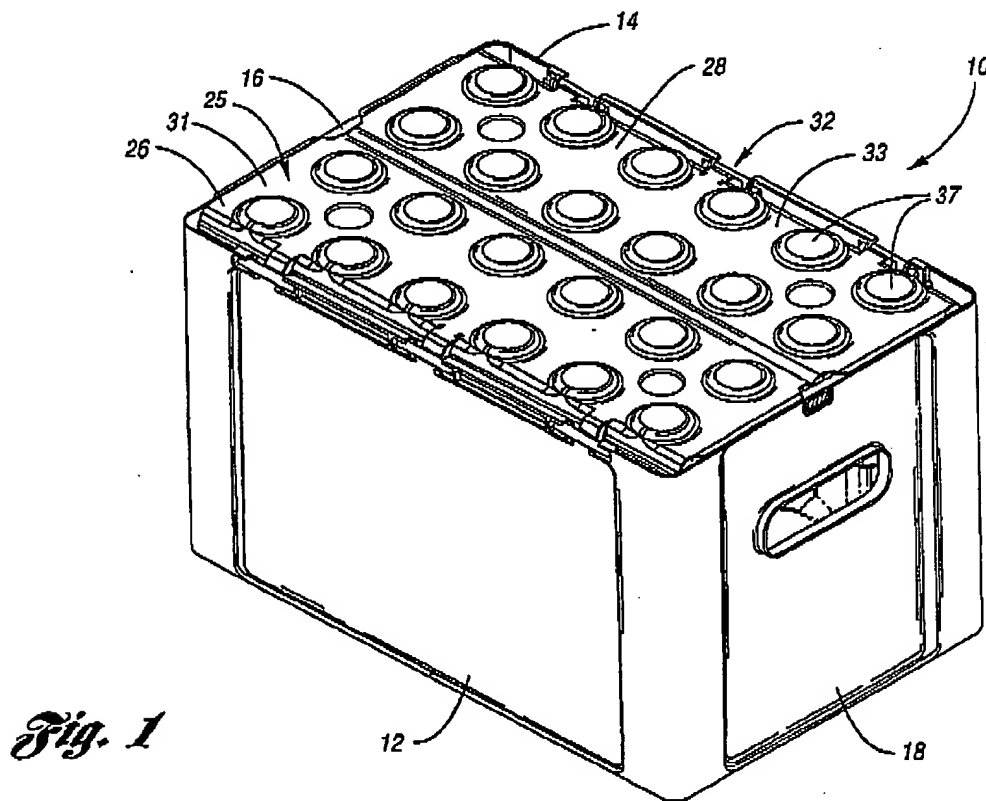
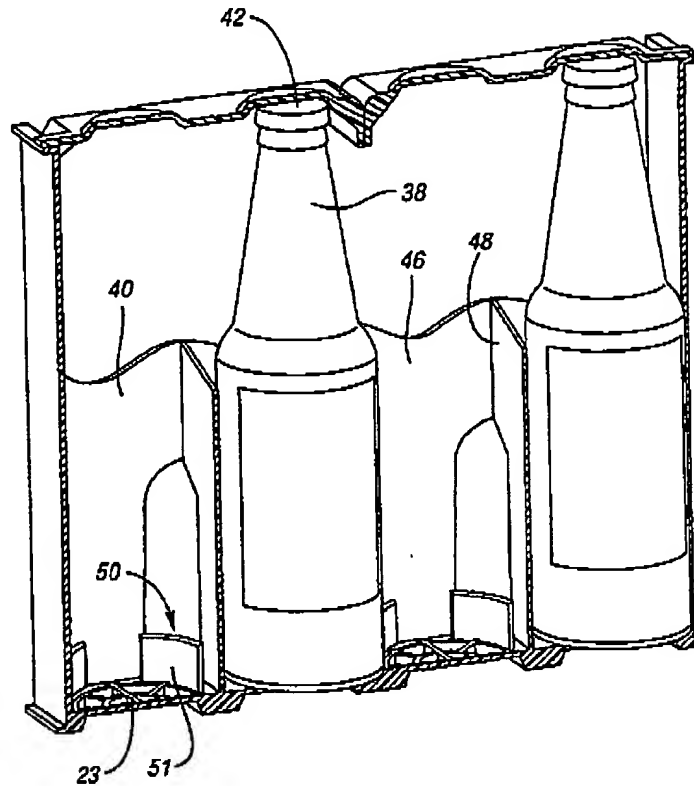


Fig. 1

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As shown in Figures 9 (reproduced below), divider members 44 include a plurality of low profile standoff members 50 (or spacer members) which project into each bottle retention area 40.

Fig. 9



Standoff portions 50 serve to keep bottle 38 vertically aligned within retention areas 40, in order to avoid lateral movement of the bottle. Thus, standoff portions 50 particularly assist in keeping the bottle centered within the bottle retention area 40 so that the bottle label which is attached, screened or otherwise placed onto the bottle is spaced apart from and kept away from the divider walls, which otherwise may cause rubbing, peeling, scratching, or other wear and damage to the bottle label or to the other container markings, such as print which is deposited thereon by a screening process. The standoff portions 50 are preferably low profile, i.e. they have a relatively short height, such that they mate with and contact the container 38 at a bottom portion thereof,

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and below the label portion or the print portion typically disposed on a middle portion of the bottle or container.

Independent claim 1 recites the bottom panel (floor), side walls and the divider assembly. The divider assembly includes the low-profile standoff portions. Claim 1 also recites that the bottom panel, side walls and divider assembly are all integrally molded as one piece.

Independent claim 12 recites the floor, the side walls and a plurality of vertically disposed divider members. Claim 12 also recites, "at least one standoff member disposed proximate the floor member and offset inwardly from the lower portion of the divider members . . . the at least one standoff member having a height relatively shorter than the divider members such that it is adapted to engage the lower portion of the container and oriented such that it does not contact the label of the container."

Independent claim 20 recites the floor, the side walls, a lid portion with a lid capture area and the divider members. Claim 20 also recites the low profile spacer members spaced inwardly from the divider members. The floor, side walls and divider member are integrally molded as one piece.

Independent claim 30 recites the bottom panel (floor), the side walls and the divider members. Claim 30 also recites the low profile standoff portions and that the standoff portions extend from a longitudinally-extending one of the divider members to a transversely-extending one of the divider members in the corners.

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Independent claim 34 recites the bottom panel (floor), the side walls and the divider members. Claim 34 also recites the standoff portions protruding inwardly toward the container from the divider members for engaging the lower portion of the container without contacting the central label area to provide stability to the container and for maintaining the corresponding beverage container in a spaced relationship from the divider members. Claim 34 also recites that the standoff portions are shorter than the divider members.

GROUND OF REJECTION TO BE REVIEWED ON APPEAL

I) Claims 1-3, 5, 7-13, 15, 17, 19, 25, 26 and 29-36 are rejected under 35 U.S.C. §102(b) as being anticipated by Sauey (U.S. Patent No. 2,928,530).

II) Claims 4 and 14 are rejected under 35 U.S.C. §103(a) as being unpatentable over Sauey in view of Koefeldt (U.S. Patent No. 5,769,230).

III) Claims 4, 6, 14 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sauey in view of Koefeldt and Apps (U.S. Patent No. 5,351,814).

IV) Claims 1-3, 5, 7-13, 15, 17, 19, 25, 26, 29-41 and 43-48 are rejected under 35 U.S.C. §103(a) as being unpatentable over Apps in view of Sauey and U.S. Patent No 5,335,814 to Hepp.

V) Claims 1-5, 7-15, 17, 19, 20, 23-26 29-41 and 43-48 are rejected under 35 U.S.C. §103(a) as being unpatentable over Gale (U.S. Patent No. 5,975,300) in view of Apps, Sauey and Hepp.

VI) Claims 20 and 23-24 are rejected under 35 U.S.C. §103(a) as being unpatentable over Apps in view of Gale, Koefeldt, Sauey and Hepp.

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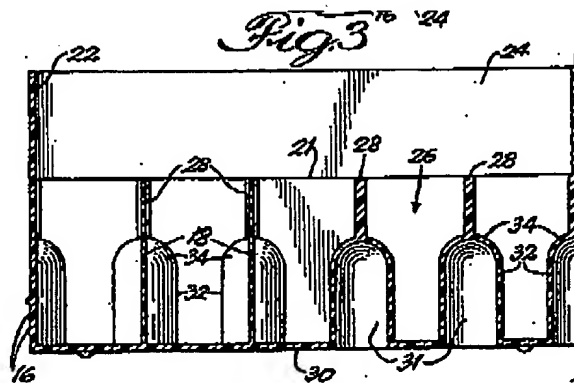
VII) Claim 21 is rejected under 35 U.S.C. §103(a) as being unpatentable over [Apps in view of Gale, Sauey and Hepp] or [Gale in view of Apps, Sauey and Hepp] as applied to claim 20 above, and further in view of Jamison (U.S. Patent No. 5,673,791).

ARGUMENT

I) § 102 Rejection Over Sauey

Claims 1-3, 5, 7-13, 15, 17, 19, 25, 26 and 29-36 were rejected as being anticipated by U.S. Patent No. 2,928,530 to Sauey.

Sauey discloses a shotgun shell box. Figure 3 of Sauey is reproduced below.



The Sauey patent discloses that "the cylindrical objects are completely surrounded along their length so they can stand erect . . ." (col. 1, lines 28-29). Sauey also states, "[T]he vertical protuberances 32 support a considerable length of the object in contact therewith so that there is no tendency for the object to incline but it remains in the vertical position at all times and regardless of the attitude of the box itself." (col. 2, lines 36-40, emphasis added). Since the box in Sauey is for shotgun shells, it is acceptable to contact the entire length of the object (the shell) with the vertical protuberances. However, the present invention avoids contact with a label on a beverage container to prevent damage to the label.

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A) Claims 1, 3 and 30

The “standoff portions” in claims 1, 3 and 30 are “low profile.” The “vertical protuberances 32” in Sauey are not low profile, but contact a considerable length of the object. Therefore, claims 1, 3 and 30 are not anticipated by Sauey.

B) Claims 3, 12 and 34

Claim 3 also recites that the bottle is contacted below the central label area by the standoff portions. Claim 12 recites that the at least one standoff member “does not contact the label of the container.” Claim 34 recites that the standoff members do not contact the label of the container. Again, the Sauey shotgun shell box contacts the shells along a considerable length of the shells. Therefore, claims 3, 12 and 34 are not anticipated by Sauey.

C) Claim 9

Dependent claim 9 recites, “the standoff portions have a height significantly shorter than the corresponding divider members.” As shown above, the protruberances 32 in Sauey are not “significantly shorter” than the dividing members, but are almost as tall as the dividing members.

II) §103 Rejection Over Sauey in View of Koefeld

The Examiner has rejected claims 4 and 14 as obvious over Sauey in view of U.S. Patent No. 5,769,230 to Koefeld. The Examiner admits that Sauey does not disclose “lid capture area” formed in the lid inner surface, as claimed. The Examiner’s proposed motivation to add them is “so that adjacent items do not impact or rub each other and to prevent top damage from

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occurring to the items." However, the lid capture area would be useless in the Sauey shotgun shell box because the shotgun shells are already completely separated from one another by the dividing walls 18 and the vertical protuberances 32. As indicated above, Sauey states, "[T]he vertical protuberances 32 support a considerable length of the object in contact therewith," so the shells would be unable to impact or rub each other. The shells would also be spaced far enough from the cover 12 in Sauey that there would be no danger of damage to the shells from the cover 12. Therefore, claims 4 and 14 are not obvious.

III) §103 Rejection Over Sauey in View of Koefeldt and Apps '814

A) Claims 4 and 14

Claims 4, 6, 14 and 16 were rejected as obvious over Sauey in view of Koefeldt and further in view of U.S. Patent No. 5,351,814 to Apps. For the reasons stated above in Section II, it would not be obvious to modify Sauey in such a manner to have a "lid capture area" as recited in claims 4 and 14.

B) Claims 6 and 16

Sauey and Apps '814 do not show hinged lids. The Examiner has not offered any motivation for replacing the separate cover 12 of Sauey with a hinged lid. Therefore, claims 6 and 16 are not obvious.

IV) §103 Rejection Over Apps in View of Sauey and Hepp

Claims 1-3, 5, 7-13, 15, 17, 19, 25, 26, 29-41 and 43-48 were rejected as obvious over Apps in view of Sauey and further in view of U.S. Patent No 5,335,814 to Hepp.

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A) Claims 1-3, 5, 7-13, 15, 17, 19, 25, 26, 29-41 and 43-48

The Examiner admits that Apps does not show the claimed standoff portions. As shown in Figure 11 of Apps (reproduced below), Apps discloses divider walls between the bottles, but does not disclose standoff portions.

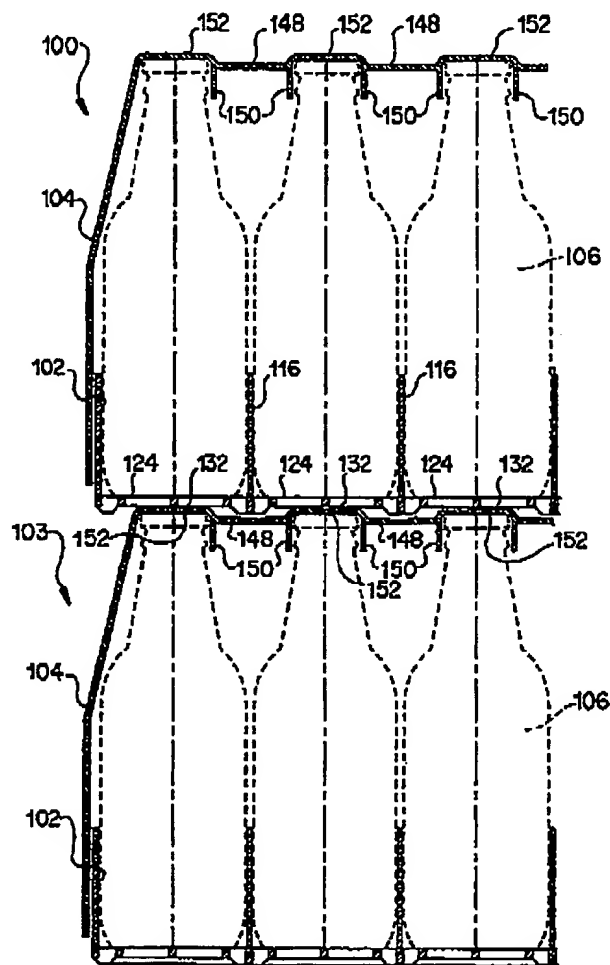


FIG. 11

The divider walls are in direct contact with the bottles. The case receives significantly less than half of the height of the bottle. The rest of the bottle protrudes from the case. The

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divider walls already contact the surface of the bottles. Thus, there would be no motivation to add standoff portions to "provide more effective securement," as the Examiner proposes.

Hepp also only engages the base of the bottle. Hepp has solid walls 46 that extend the full height of the dividers. Hepp does not teach standoff portions that are low profile or shorter than the divider walls.

Sauey is a shotgun shell box. One of skill in the art of cases for beverage containers would not look to shotgun shell boxes. Thus, Sauey is not analogous art. Additionally, once again, Sauey teaches vertical protuberances 32 that contact a considerable length of the object (shotgun shell). Thus, even if Apps were modified in accordance with Sauey, it would not include standoff portions that are "low profile" or shorter than the divider walls.

For these reasons, all of the claims are patentable over Apps, Sauey and Hepp.

B) Claims 47 and 48

Claims 47 and 48 recite that the standoff portions have a height less than 1 1/8 inches or less than 7/8 inch, respectively. The Sauey protruberances 32 would be larger than these dimensions, since they are designed to contact a considerable length of a shotgun shell, which would be more than twice these dimensions. Therefore, claims 47 and 48 are each independently patentable.

V) §103 Rejection over Gale in view of Apps, Sauey and Hepp

Claims 1-5, 7-15, 17, 19, 20, 23-26, 29-41 and 43-48 were rejected as obvious over U.S. Patent No. 5,975,300 to Gale in view of Apps, Sauey and Hepp.

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A) Claims 1-5, 7-15, 17, 19, 20, 23-26, 29-41 and 43-48

Gale discloses a cardboard carton with pulp inserts for shipping glass bottles. Figure 1 of Gale is reproduced below. The lower pulp insert is shown in Figure 6, also reproduced below. The Examiner calls the cylindrical rib 96 in the lower pulp insert of Gale a "standoff portion." It is incorrect to say that Gale discloses everything except being integrally molded as one piece. Additionally, there is no motivation for integrally molding the Gale carton and pulp inserts.

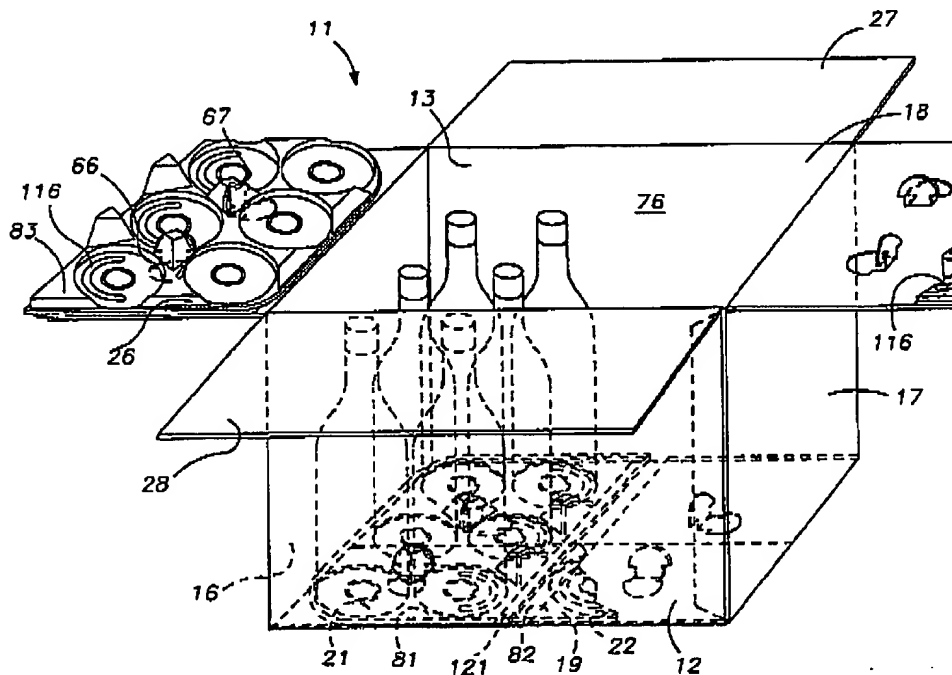


FIG. -1

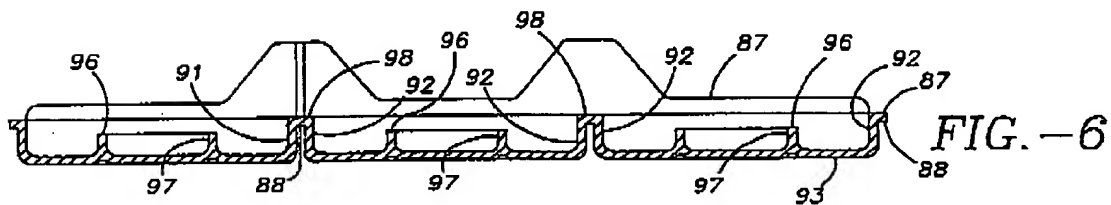


FIG. -6

Gale does not disclose "standoff portions" that maintain the beverage container in a spaced relationship from (what the Examiner calls) the divider members. Rather, in Gale, the

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beverage container appears to be in direct contact with that which the Examiner calls the divider members. Additionally, claims 1, 12 and 20 recite that the lower portion of the container is on the outer surface. The circular rib 96 of Gale does not engage the outer surface of the bottle.

B Claim 30

The Examiner has previously indicated that claim 30 would be allowable over these references. The new reference, Sauey, is cumulative in this regard. Claim 30 recites, "the plurality of standoff portions each extending from a longitudinally-extending one of the divider members to a transversely-extending one of the divider members in the corners." The circular rib 96 in Gale does not include this feature.

B) Claim 34

Claim 34 recites, "the standoff portions protruding inwardly toward the container *from* the divider members." The circular rib 96 in Gale does not disclose this feature because the circular rib 96 is spaced away from the divider member. Therefore, claim 34 is independently patentable.

VD §103 Rejections Over Apps in view of Gale, Koefeldt, Sauey and Hepp

Claims 20 and 23-24 were rejected as obvious over Apps in view of Gale, Koefeldt, Sauey and Hepp. It is incorrect for the Examiner to say, "Apps discloses the invention except for the hinged lid." Apps does not disclose spacer members that contact the containers and space the containers from the divider members and the sidewalls, as claimed in claim 20. For the reasons

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stated above with respect to the rejection over Apps in view of Sauey and Hepp (in Section IV above), claims 20 and 23-24 are also not obvious.

Additionally, the Examiner has not offered sufficient motivation for adding a hinged lid to the Apps case. Such a modification would require extensive redesign of the Apps case. The Apps case receives significantly less than half of the height of the bottle. The cover in Apps is taller than the base. Because of the height of the cover in Apps, the cover could not be hinged on one of the walls and still fit over the tops of the bottles. For this additional reason, claims 20 and 23-24 are not obvious over Apps.

VII. §103 Rejection Over Apps in View of Gale, Sauey, Hepp, Jamison or Gale in view of Apps, Sauey, Hepp and Jamison

Claim 21 was rejected as obvious over Apps in view of Gale, Sauey, Hepp and U.S. Patent No. 5,673,791 to Jamison, or over Gale in view of Apps, Sauey, Hepp and Jamison. For the reasons stated above with respect to claim 20, claim 21 is patentable.

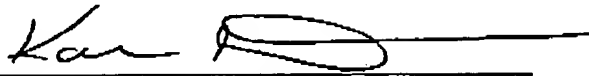
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Closing

No fees should be due. The Appeal Brief fee has already been paid. If any additional fees are due, please charge Deposit Account No. 50-1984.

Respectfully submitted,

Date: November 7, 2005



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CLAIMS APPENDIX

1. A crate for holding a beverage container having an outer surface with a lower portion and a central label area, the crate comprising:

a unitary bottom panel having an upper surface;

a first pair of opposed side walls and a second pair of opposed side walls attached to the periphery of the bottom panel to form a unitary construction therewith and defining a compartment area therein; and

a divider assembly having a plurality of divider members attached to the upper surface of the bottom panel and extending longitudinally and transversely in the compartment area to define at least one container receiving area for receiving the beverage container therein, the divider assembly including a plurality of low profile standoff portions having a container contact surface spaced from corresponding divider members and generally transverse to the upper surface of the bottom panel, the standoff portions extending inwardly into the at least one container receiving area for engaging the lower portion of the container to provide stability thereto and for maintaining the corresponding beverage container in a spaced relationship from the divider members, wherein the standoff portions are shorter than the divider members and wherein the bottom panel, first and second pairs of opposed side walls and divider assembly are all integrally molded as one piece.

2. The crate of claim 1, wherein the standoff portions have a height corresponding to the height of the container lower portion.

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3. The crate of claim 1, wherein the standoff portions have a relatively low profile such that a bottle is contacted below the central label area.

4. The crate of claim 1, further comprising a lid member pivotably attached to at least one of the first and second pair of opposed side walls, the lid member having a lid inner surface with a lid capture area formed therein corresponding to the at least one container receiving area, the lid capture area sized to receive an upper portion of a respective container for providing alignment to the container.

5. The crate of claim 1, wherein the bottom panel has a bottom surface with a plurality of projection receiving areas formed therein.

6. The crate of claim 5, further comprising at least one lid member pivotably attached to at least one of the first and second pair of opposed side walls, the at least one lid member orientable between a closed position and an open position, the lid member having an outer surface with a plurality of projections extending therefrom, wherein when the lid of the crate is in the closed position and a second crate is stacked thereupon, the projections of the lid member are received within a corresponding projection receiving areas of the second crate for providing a more stable stacking configuration.

7. The crate of claim 1, wherein the plurality of standoff portions have a mating surface for engaging the lower portion of the container.

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8. The crate of claim 7, wherein the mating surface of the standoff portions is contoured concavely for engaging the lower portion of the container.

9. The crate of claim 7, wherein the standoff portions have a height significantly shorter than the corresponding divider members.

10. The crate of claim 1, wherein the at least one container receiving area has four standoff portions extending therein for engaging the container.

11. The crate of claim 1, wherein the standoff portions engage the bottom panel.

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12. A crate adapted to store therein a container having an outer surface with a central container portion having a label disposed thereon and a lower portion disposed below the label, the crate comprising:

a floor member having an upper surface with a plurality of container support portions disposed thereon;

a first pair of opposed upstanding side walls and a second pair of opposed upstanding side walls attached to a periphery of the floor member and defining a compartment area with the floor member;

a plurality of vertically disposed divider members extending within the compartment area defining with the container support portions a plurality of container receiving areas, the divider members having a lower portion adjacent the floor member; and

at least one standoff member disposed proximate the floor member and offset inwardly from the lower portion of the divider members for extending into a respective one of the plurality of container receiving areas, wherein the at least one standoff member protrudes upwardly from the upper surface of the floor member and protrudes inwardly toward the container from the divider members, the at least one standoff member having a height relatively shorter than the divider members such that it is adapted to engage the lower portion of the container and oriented such that it does not contact the label of the container.

13. The crate of claim 12, wherein the plurality of divider members extend longitudinally and transversely in the compartment area.

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14. The crate of claim 12, further comprising a lid member pivotably attached to at least one of the first and second pair of opposed upstanding side walls, the lid member having a lid inner surface with a lid capture area formed therein corresponding to each container retention area, the lid capture area sized to receive an upper portion of a respective container for providing alignment to the container.

15. The crate of claim 12, wherein the floor member has a bottom surface with a plurality of projection receiving areas formed therein.

16. The crate of claim 15, further comprising at least one lid member pivotably attached to at least one of the first and second pair of opposed side walls, the at least one lid member orientable between a closed position and an open position, the lid member having an outer surface with a plurality of projections extending therefrom, wherein when the lid of the crate is in the closed position and a second crate is stacked thereupon, at least some of the plurality of projections on the lid member are received within corresponding projection receiving areas of the second crate for providing a more stable stacking configuration.

17. The crate of claim 12, wherein said at least one standoff member has a mating surface for engaging the container.

19. The crate of claim 12, wherein the divider members have a height relatively shorter than the first and second pairs of opposed upstanding side walls.

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20. A crate for retaining containers having an outer surface with an upper container portion and a lower container portion, the crate comprising:

a unitary floor having a periphery and an upper surface with a plurality of container support areas;

a first and second pair of opposed sidewalls extending upwardly from the floor periphery forming a unitary construction therewith and defining a compartment area;

a lid member having a first hinge portion pivotably attached to a second hinge portion of at least one of the first and second pair of opposed side walls and movable between an open and closed position, the lid member having a lid inner surface having a lid capture area formed therein corresponding to a respective one of the container support areas, the lid capture area sized to receive therein the upper container portion of a respective one of the containers for providing alignment to the container;

a plurality of divider members extending within the compartment and projecting upwardly from the floor to define container receiving areas, wherein the floor, first and second pairs of opposed side walls and divider members are all integrally molded as one piece; and

a plurality of low profile spacer members disposed proximate the floor and spaced inwardly from the divider members into corresponding container receiving areas such that the container support areas and spacer members define pockets for receiving the lower container portion, the spacer members contacting the containers and spacing the containers from the divider members and the sidewalls.

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21. The crate of claim 20, wherein at least one of the sidewalls has a lock receiver formed therein, and the lid member has at least one locking member attached thereto, such that when the lid member is in the closed position, the locking member is received within the lock receiver for securing the lid member thereto.

23. The crate of claim 20, wherein the floor has a bottom surface with a plurality of receiving areas formed therein.

24. The crate of claim 20, wherein the lid member has an outer surface with a projection member extending therefrom corresponding to each lid capture area, wherein when the lid member is in the closed position and a second crate is stacked thereupon, at least some of the projections on the outer surface of the lid member is received within a corresponding projection receiving area of the second crate for providing a more stable stacking configuration.

25. The crate of claim 12, wherein the divider members extend above the central container portion of the container.

26. The crate of claim 12, further comprising at least one other standoff member disposed in the corner of the crate proximate the floor member for spacing the container from adjacent sidewalls.

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29. The crate of claim 1 wherein the divider members are generally planar and wherein intersections of the divider members form corners in the container receiving areas, the plurality of standoff portions each extending from a longitudinally-extending one of the divider members to a transversely-extending one of the divider members in the corners.

30. A crate for holding a beverage container having a lower portion and a central label area, the crate comprising:

a unitary bottom panel having an upper surface;

a first pair of opposed side walls and a second pair of opposed side walls attached to the periphery of the bottom panel to form a unitary construction therewith and defining a compartment area therein; and

a divider assembly having a plurality of generally planar divider members attached to the upper surface of the bottom panel and extending longitudinally and transversely in the compartment area to define at least one container receiving area for receiving the beverage container therein, wherein intersections of the divider members form corners in the container receiving areas, the divider assembly including a plurality of low profile standoff portions each having a container contact surface spaced from corresponding divider members and generally transverse to the upper surface of the bottom panel, the standoff portions extending inwardly into the at least one container receiving area for engaging the lower portion of the container to provide stability thereto and for maintaining the corresponding beverage container in a spaced relationship from the divider members, the plurality of standoff portions each extending from a longitudinally-extending one of the divider members to a transversely-extending one of the divider members in the corners, wherein the plurality of standoff portions are contoured for

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engaging the lower portion of the container and wherein the standoff portions are substantially shorter than the divider members.

31. The crate of claim 30 further including at least one of the plurality of standoff portions in each of four corners of each container area.

32. The crate of claim 29 wherein the plurality of standoff portions protrude upwardly from the upper surface of the bottom panel and protrude inwardly toward the container from the divider members.

33. The crate of claim 32 wherein the bottom panel, first and second pairs of opposed side walls and divider assembly are all a single integrally-molded plastic piece.

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34. A crate for holding a beverage container having a lower portion and a central label area, the crate comprising:

a bottom panel having an upper surface;

a first pair of opposed side walls and a second pair of opposed side walls attached to the periphery of the bottom panel to form a unitary construction therewith and defining a compartment area therein; and

a divider assembly having a plurality of divider members attached to the upper surface of the bottom panel and extending longitudinally and transversely in the compartment area to define at least one container receiving area for receiving the beverage container therein, the divider assembly including a plurality of standoff portions shorter than the divider members, each standoff portion having a container contact surface spaced from corresponding divider members and generally transverse to the upper surface of the bottom panel, the standoff portions protruding inwardly toward the container from the divider members for engaging the lower portion of the container without contacting the central label area to provide stability to the container and for maintaining the corresponding beverage container in a spaced relationship from the divider members.

35. The crate of claim 34 wherein the bottom panel, first and second pairs of opposed side walls and divider assembly are all a single integrally-molded plastic piece.

36. The crate of claim 34 wherein the standoff portions are substantially shorter than the divider members.

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37. The crate of claim 34 wherein the standoff portions protrude upwardly from the upper surface of the bottom panel.

38. The crate of claim 1 wherein the standoff portions are substantially shorter than the divider members.

39. The crate of claim 1 further including the beverage container having the lower portion and the central label area, the beverage container in the at least one container receiving area, and wherein the standoff portions each have a height less than a height of the lower portion of the container below the central label area such that the standoff portions contact the lower portion of the beverage container without contacting the central label area.

40. The crate of claim 1 wherein the container contact surface of each standoff portion is concave.

41. The crate of claim 40 wherein the container contact surface of each standoff portion is concave when not in contact with the beverage container.

43. The crate of claim 1 wherein the divider members are at least several times taller than the standoff portions.

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44. The crate of claim 30 wherein the plurality of standoff portions each have a height such that each standoff portion would contact the lower portion of the container without contacting the central label area of the container.

45. The crate of claim 30 wherein the plurality of standoff portions each have a height less than a height of the lower portion of the container below the central label area.

46. The crate of claim 30 further including the beverage container having an outer surface including the lower portion and the central label area, the beverage container in the at least one container receiving area, and wherein the standoff portions each have a height less than a height of the lower portion of the container below the central label area such that the standoff portions contact the lower portion of the beverage container without contacting the central label area.

47. The crate of claim 41 wherein the standoff portions each have a height less than 1 1/8 inches.

48. The crate of claim 47 wherein the standoff portions each have a height less than 7/8 inch.

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EVIDENCE APPENDIX

None.

RELATED PROCEEDINGS APPENDIX

None.